

ADVISORY OPINION 94-026

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is required. KRS 121. 135(4).

January 12, 1995

Hon. Donald H. Vish
Brown, Todd & Heyburn
3200 Providian Center
Louisville, Kentucky 40202-3363

Dear Mr. Vish:

This is in response to your December 6, 1994, letter to the Registry on behalf of the Forgy for Governor Campaign Committee. Your first question, containing four subsections, requests an opinion regarding whether the Republican National Committee and the State Republican Party may:

1. Each contribute \$500 to the Forgy committee;
2. Purchase radio, television, and print media space endorsing Forgy;
3. Endorse all Republican candidates if the endorsements are not coordinated with the committee;
4. Furnish personnel and consultants to the campaign; or
5. Furnish personnel, television, radio, and print media sponsoring/endorsing and proposing ideas and programs advanced by the Forgy committee (assuming there is no coordination with the Forgy committee)?

In response to question one, subsection (1), a slate of candidates which has filed a notice of intent to accept public financing "shall not knowingly accept a contribution from a natural person, permanent committee, executive committee of a political party...of more than five hundred dollars (\$500) in any one (1) election." (Emphasis added). (KRS 121A.050(1)). The Republican National Committee and the State Republican Party are separate entities and each may, therefore, contribute \$500 per election.

In response to subsection (2), KRS 121A.050(1) provides: "Except for independent expenditures, as defined in KRS 121.150(1) no...executive committee of a political party...shall knowingly make a contribution of more than five hundred dollars (\$500) in any one (1) election..." (Emphasis added).

Assuming that both the Republican National Committee and the State Republican Party have each contributed the maximum five hundred dollar (\$500) contribution, as stated in subsection (1), no further contributions, including "in-kind" through purchase of advertising, to the campaign are permissible unless the expenditures are "independent" as defined by KRS 121.150(1). Please be advised that staff does have some question regarding whether an expenditure by a political party could be independent.

In response to subsection (3), if \$500 has been contributed, the expenditure would be permissible only if "independent" as defined by KRS 121.150(1), and as stated above, this is questionable.

In response to subsection (4), it appears that the activity of furnishing personnel and consultants to the campaign would necessarily involve coordination with the Forgy campaign and could not be independent as defined by KRS 121.150(1). Therefore, the political committees are restricted to the maximum direct contribution limits of five hundred dollars (\$500) per election.

The response to subsection (5) is the same as that to subsection (4) insofar as "furnish" implies some type of contact or coordination with the campaign, even if indirectly. Therefore, the furnishing of media-related programs would not be consistent with KRS 121.150(1).

Question two asks whether the Republican National Committee and the State Republican Party can share polling data with the Forgy committee without such sharing being reported as an "in-kind" campaign contribution. The Republican National Committee and the State Republican Party may share polling data with the Forgy campaign. However, the poll would have value to the Forgy campaign, and if shared, would constitute an "in-kind" contribution. We suggest that you review 11 CFR Ch. 1 § 106.4 for guidance in calculating the value of this "in-kind" contribution.

Your third question asks whether the Forgy campaign can raise and spend \$1.8 million or must discontinue fundraising if and when it raises \$600,000 during the primary. The Registry has adopted an emergency regulation, 32 KAR 1:110E, which permits an unopposed slate in a primary or a slate which is opposed by a slate that fails to reach the minimum threshold to raise contributions and make expenditures up to \$1.8 million provided that no primary funds are used in any way for the general election. A copy of this regulation is attached for your information.

Your fourth and final question asks whether ten (10) persons may rent a public hall for hosting a public event and aggregate their individual \$300 in-kind contribution exemption for fundraising events. You also ask whether the campaign committee may pay expenses that exceed any aggregate exemption which might be available to the group. KRS 121A.010(11)(a)(1-5) defines contributions. Subsection 11(b)(2) excludes "[e]xpenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars (\$300)." (Emphasis added). The operative language in this statute confines the \$300 exemption to individual home functions. The statute further imposes restrictions on the amount spent in connection with such an event. Therefore, we find no express or implied language in the statute which would permit individuals to aggregate the \$300 exemption or remove the fundraising event from the home to a public hall.

Please contact us if you have further questions. Thank you.

Sincerely,

Rosemary F. Center
General Counsel

RFC/db